

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the petition of)
Connie Friend for Review of)
Order No. 72-75 of the California) Order No. WQ 73-11
Regional Water Quality Control)
Board, Los Angeles Region.)
_____)

BY THE BOARD

On January 12, 1973, Connie Friend of the Malibu Bay Club petitioned the State Water Resources Control Board (State Board) for review of Order No. 72-75 of the California Regional Water Quality Control Board, Los Angeles Region (regional board), prescribing waste discharge requirements for the Malibu Bay Club (discharger), adopted December 13, 1972.

The petition requests a "reversal" of Order No. 72-75 on the ground it is inappropriate and improper because the vertical separation between the leach field system and mean high tide that the order requires is inadequate to prevent water quality problems resulting from operation of the septic tank-leaching system. The petition also requests that an environmental impact study be performed.

The State Board has considered the petition and reviewed the record of the regional board relating to Order No. 72-75, and for the reasons hereafter stated has determined that the regional board's action in prescribing waste discharge requirements was appropriate and proper. The contentions of the petitioner and our findings relative thereto are as follows:

CONTENTION: The requirement specifying that the vertical separation between the lowest portion of the septic tank or leach field system and the mean high tide be no less than four (4) feet creates a possible water quality problem and is, therefore, inappropriate and improper.

Finding:

Requirement No. 8 of Order No. 72-75 provides that:

"8. No part of any existing seepage pit or leaching system shall extend below an elevation of four feet above mean high tide, or to a depth where wastes may deleteriously affect an underground water stratum that is usable for domestic purposes. No new or reworked system shall extend below an elevation of five feet above mean high tide."

While the regional board has adopted other requirements for similar beach front area discharges specifying that no part of the septic tank-leaching system be lower than five (5) feet above mean high tide, the 5-foot limit is admittedly arbitrary and there are numerous existing systems which have functioned for many years at lower elevations without causing any known water quality problems in adjacent ocean waters.

In order to ensure compliance with the requirements, a monitoring program was adopted and included as part of Order No. 72-75. The discharger is required by the monitoring program to make observations of beach and surf areas for any surfacing of waste or other visible effects of waste discharges on a weekly basis. Additionally, the regional board staff has the responsibility to monitor the area to verify that problems do not exist.

The regional board took samples for fecal coliform in the surf zone adjacent to the Malibu Bay Club septic tank-leaching system on January 7 and 21, 1973. The samples show a most probable number of coliform organisms of between 3 and 15 per 100 ml. The regional

board's water quality control plan for ocean waters contains a bacteria objective of a most probable number of coliform of not more than 1000 per 100 ml which is the state public health bacteriological standard for a public beach or a water-contact sports area. Therefore, the Board finds that Requirement No. 8 of Order No. 72-75 is appropriate and proper.

CONTENTION: At a minimum, an environmental impact study should be performed to see what effect the system will have on the area.

Finding:

Our findings concerning petitioner's first contention show that the requirements and monitoring program included in the order adequately safeguard the environment from any adverse effect as a result of the discharge. The requirement of the Environmental Quality Act of 1970 as amended in 1972 for preparation of an Environmental Impact Report before a state agency approves a project did not take effect until after Order No. 72-75 had been adopted. Furthermore, regulations adopted by the Secretary of the Resources Agency categorically exempt actions taken by regulatory agencies to assure the protection of the environment (14 Cal. Adm. Code 15108). Waste discharge requirements are included in that exemption (23 Cal. Adm. Code 2714(d)).

Conclusions:

Based on the record before the regional board, the State Board finds that the action of the regional board in adopting Order No. 72-75 setting waste discharge requirements for the Malibu Bay Club was appropriate, adequate and proper. The petition requesting.

a reversal of the regional board's action and an environmental study should, therefore, be denied.

IT IS HEREBY ORDERED that the petition of Connie Friend for review of the action of the Los Angeles Regional Board in adopting Order No. 72-75 be, and it is, denied.

Dated: May 3, 1973

W W Adams

W. W. Adams, Chairman

Ronald R. Robie

Ronald R. Robie, Vice Chairman

Roy E. Dodson

Roy E. Dodson, Member

Mrs. Carl H. Auer

Mrs. Carl H. (Jean) Auer, Member

W. Don Maughan

W. Don Maughan, Member